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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,267	03/20/2001	Tyler Lowrey	2024.24	2620
24963	7590	04/18/2005	EXAMINER	
ENERGY CONVERSION DEVICES, INC. 2956 WATERVIEW DRIVE ROCHESTER HILLS, MI 48309			CAO, PHAT X	
			ART UNIT	PAPER NUMBER
			2814	

DATE MAILED: 04/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/813,267

Applicant(s)

LOWREY ET AL.

Examiner

Phat X. Cao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 66-83 is/are pending in the application.
- 4a) Of the above claim(s) 69-83 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 66-68 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The cancellation of claims 1-65 in Paper filed on 2/1/05 is acknowledged.
2. Newly submitted claims 69-79 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the product as claimed in newly submitted claims 50-60 discloses an electrically contact having a second dielectric layer disposed on the conductive layer within the opening, the conductive layer including a first portion and a second portion on the sidewall surface, the second portion raised above the upper surface of the first portion (see Fig. 5D). On the other hand, the original elected claims disclose the electrically contact having no second portion of the conductive layer raised above the upper surface of the first portion of the conductive layer formed on the sidewall surface of the opening (see Fig. 5B);

Similarly, the product as claimed in newly submitted claims 80-83 discloses an electrically contact having a cup-shaped and coupled to a substrate, the cup-shaped contact having an open end, having a dielectric material formed over the interior surface of the cup-shaped contact, and having protrusion(s) extending upward from the rim of the cup-shaped contact. On the other hand, the original elected claims disclose the product comprising an electrically contact having no protrusion(s) extending upward from the rim of the cup-shaped contact.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 69-83 are withdrawn from consideration

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as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Allowable Subject Matter

3. Claims 66-68 are allowed.

The prior art of record fails to disclose the combination of an electrically programmable element structures recited in the base claim, including the combination of the structures comprising the conductive layer and the raised portion having a lateral thickness, and the raised portion having a lateral width as claimed.

Response to Arguments

4. Applicant argues that the newly submitted claims 69-83 are supported by original claim 8.

The examiner disagrees because the original dependent claim 8 claims the conductive layer being a conductive liner as shown in Fig. 5B embodiment, but does not claim a second portion of the conductive layer raised above the upper surface of a first portion of the conductive layer formed on the sidewall surface of the opening as claimed in newly independent claim 69 and in Fig. 5D embodiment, or does not claim an cup-shaped electrical contact having protrusions extending upward from the rim of the cup-shaped contact as claimed in newly independent claim 80 and in Fig. 5D embodiment.

Conclusion

5. This application is in condition for allowance except for the following formal matters:

This application is in condition for allowance except for the presence of newly submitted claims 69-83 drawn to an invention, which is distinct from the invention original claimed. Applicant is request to cancel the noted claims.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phat X. Cao whose telephone number is (571) 272-1703. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy can be reached on (571) 272-1705. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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April 15, 2005

A handwritten signature in black ink, appearing to read 'Phat X. Cao', with a stylized, flowing script.

PHAT X. CAO
PRIMARY EXAMINER